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November 21, 2021

VIA ECF

Hon. Analisa Torres
United States District Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, New York 10007

Re: *MSIG Mingtai Insurance Co., Ltd. et al. v.*
Danmar Lines Ltd.
21 Civ. 07994 (rel. 21 Civ. 09194, 21 Civ. 09195,
21 Civ. 09370, 21 Civ. 09388, 21 Civ. 09546)
Our File: 28-305

Dear Judge Torres:

We represent Plaintiffs MSIG Mingtai Insurance Co., Ltd., Fubon Insurance Co., Ltd., Taiwan Fire & Marine Insurance Co., Ltd. and Cathay Century Insurance Co., Ltd. in 21 Civ. 07994.

We write to respectfully request an adjournment of the November 23, 2021 deadline for the submission of a joint letter and a jointly proposed Case Management Plan and Scheduling Order. *See* Initial Pretrial Scheduling Order (ECF Doc. 10).¹ This is the first request for an adjournment of the deadline. The request is made for two reasons.

First, Defendant Danmar Lines Ltd. has not yet appeared in the action. It is a foreign business entity with a place of business in Switzerland. A Notice of Lawsuit and Request for Waiver of Service

¹¹ A copy of the Order was sent by e-mail to counsel for Defendant Danmar Lines Ltd. in England on October 4, 2021. When no acknowledgement was received, a copy of the Order was sent by mail directly to Danmar in Switzerland on October 7, 2021. Neither Danmar nor its counsel has responded to our correspondence on this matter.

of Summons was sent to Danmar on September 29, 2021. Danmar has not yet returned a signed waiver but has until November 28, 2021 to do so. If a signed waiver is not returned, Plaintiffs will undertake to formally serve the Summons and Complaint. We expect this will take some time, as the papers need to be translated and Danmar must be served in Switzerland pursuant to the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters.

Second, this action is one of at least seven related actions pending before the Court for cargo loss and damage in connection with the loss of and damage to nearly 2,000 containers carried on the M/V ONE APUS on or about November 30, 2020 during a voyage from ports in Asia to ports in the United States of America. The other related actions were only filed in the last two weeks. We know more related actions will be filed in the coming week, including one by this firm. The known related actions filed to date are listed below. We represent plaintiffs in five of the seven related actions. There are some nineteen defendants across the related actions, including Danmar in two of them. Several of the defendants, like Danmar, are foreign business entities with places of business in foreign states.² We expect an application to consolidate the related actions for some, if not all, purposes will be made.

We respectfully submit that, in the interests of efficiency and economy, a Case Management Plan and Scheduling Order should not be entered in this action at this time and that an initial pretrial conference should be held for all of the related actions at the same time.³ Service of the Summons and Complaints in the other related actions is underway. We expect some of the defendants will need to be served pursuant to the Hague Convention.

The related actions filed to date include:

- 21 Civ. 09194 (AT) - Tokio Marine Nawa Insurance Co., Ltd. v. Orient Express Container Co., Ltd.
- 21 Civ. 09195 (AT) - Atlantic Specialty Insurance Company et al. v. China Int'l Freight Co., Ltd.
- 21 Civ. 09370 (AT) - Starr Indemnity & Liability Company et al. v. Trust Freight Services, Inc. et al.
- 21 Civ. 09388 (AT) - Travelers Property Casualty Company of America v. All-Ways Forwarding Int'l Inc. et al.
- 21 Civ. 09546 (AT) - Navigators Management Company, Inc. v. Kintetsu World Express Inc. et al.
- 21 Civ. 09638 (UA) - Tokio Marine & Nichido Fire Insurance Co., Ltd. et al. v. Kintetsu World Express, Inc. et al.

² The actions were filed in this District either because of a contractual form selection clause or because the defendant is a domestic New York business entity.

³ The Court entered an Order on November 19, 2021 referring this action to a Magistrate Judge for the purposes of settlement. *See* Order (ECF Doc. 12).

Hon. Analisa Torres

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November 21, 2021

Respectfully submitted,

NICOLETTI HORNIG & SWEENEY

By: S/ Kevin J.B. O'Malley

cc: **VIA E-MAIL**

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GRANTED. The deadline to submit the joint letter and proposed case management plan is ADJOURNED to 30 days after the waiver of service is signed or service is completed.

SO ORDERED.

Dated: November 22, 2021

New York, New York



ANALISA TORRES
United States District Judge